

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASON COLLURA, <i>Plaintiff,</i>	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	
NICHOLAS JAMES FORD et al., <i>Defendants.</i>	:	No. 13-4066
	:	

O R D E R

AND NOW, this 14th day of July, 2014, upon consideration of the following pending motions in this case and the parties’ briefing in support of or opposition to those motions, and for the reasons set out in today’s Memorandum (Docket No. 67), **the Court hereby ORDERS and DECREES as follows:**

1. Nicolas Ford, Mary Politano, Steffan Boyd, Steven Austin, Deputy Chief Charles Hoyt, and Chief Robert Malvesuto’s (“Defendants”) “Motion to Set Aside Application for Entry of Default” (**Docket No. 18**) is **GRANTED such that—**
 - a. The Clerk of Court’s entry of default in favor of Mr. Collura and against the Defendants is **SET ASIDE**; *and*
 - b. Mr. Collura’s Motion for Default Judgment (**Docket No. 21**) is, **accordingly, DENIED with prejudice;**
2. Mr. Collura’s “Motion for Full or Partial Judgment on the Pleadings” (**Docket No. 58**) is **DENIED**;
3. Mr. Collura’s “Motion to Strike Waived ‘Affirmative Defenses’ in Above Defendants Untimely ‘Amended Proposed Answer’” (**Docket No. 57**) is **GRANTED IN PART and DENIED IN PART such that—**
 - a. **The following “defenses” are stricken from the Amended Proposed Answer** (“APA,” Supplemental Submission, Ex. 1 (Docket No. 51)),

without prejudice to the Defendants' renewing such defenses if they do so consistent with the analysis in today's Memorandum:

- i. *Rooker–Feldman* and res judicata (APA ¶ 1);
- ii. Laches, waiver, estoppel, and unclean hands (APA ¶ 7);
- iii. Statute of limitations (APA ¶ 8);
- iv. *Heck* (APA ¶ 11);
- v. Lack of proximate cause (APA ¶ 15);
- vi. Mr. Collura's alleged failure to mitigate (APA ¶ 17); *and*
- vii. The defense that Mr. Collura's injuries were allegedly caused by his own negligent, wanton, reckless, or criminal conduct (APA ¶ 18);

b. **The following “defenses” are NOT stricken:**

- i. *Younger* abstention (APA ¶ 2);
- ii. Failure to state a claim (APA ¶¶ 3 & 4);
- iii. Absolute and qualified immunity (APA ¶¶ 5 & 6); *and*
- iv. The conclusions of law that the Defendants “have acted in a reasonable, proper, and lawful manner, and, where required, with probable cause”; that Mr. Collura “cannot recover punitive damages against” them; that Mr. Collura “is not entitled to declaratory and/or injunctive relief against” them; and that Mr. Collura “has suffered no legally cognizable injury, harm, loss, or damage upon which relief can be granted” (APA ¶¶ 12–14, 16);

c. As reiterated in the Scheduling Order entered this same date, the **Defendants shall file their “Answer” to Mr. Collura's Complaint by Friday, July 18, 2014; and, further,**

- d. In filing their Answer, Defendants shall take care that any documents containing Mr. Collura's medical or mental health information are submitted **UNDER SEAL**;

4. Mr. Collura's **Motion for Reconsideration (both Docket Nos. 48 and 62) is DENIED;**
5. Mr. Collura's "Motion to Strike and Destroy Scandalous, Impertinent, Erroneous, Material" (**Docket No. 59**) is **DENIED;**
6. Mr. Collura's "Motion to Invoke Judicial Estoppel Disqualify Archer and Greiner" (**Docket No. 61**) is **DENIED;** *and*
7. Mr. Collura's Motion for ECF Account (**Docket No. 39**) is **DENIED.**

IT IS SO ORDERED.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge